FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LATTERS PATENT APPEAL NO.12 OF 2005
ALONG WITH
CIVIL APPLICATION NO.3050 OF 2000

Office notes, office Memoranda of Coram, appearances, Court's orders or directions & Registrar's orders.	: : : : :	Court's or Judge's Orders

Mr. P.M. Rahate, the appellant in person.

None for the respondent.

CORAM: SMT. RANJANA DESAI &
D.B. BHOSALE, JJ.

DATED: 16TH JANUARY, 2006.

P.C.:-

1. The Letters Patent Appeal is not properly drafted. The appellant has sought quashing of orders passed by the Small Causes Court. However, from the averment made in paragraph (A), it appears that he has challenged order dated 16/8/1999 passed by the

learned single judge of this court in Writ Petition No.4505 of 1999. Since the appellant is appearing in person, we ignore the defect in drafting of the Letters Patent Appeal.

2. We have heard the appellant in person. According to him, the learned single judge has not heard him. There is no substance in this because the first sentence of the impugned order reads as follows :

"Heard Petitioner in person".

Hence, it is quiet clear that the learned single judge has passed the order after hearing the appellant. Even on merit, we do not find that there is any need to interfere with the impugned order. The appellant had challenged the order dated 23/6/1998 passed by the Small Causes Court discharging his contempt notice. Though the order impugned in the

petition is dated 23/6/1998, the petition was filed in June, 1999. The learned single judge is right in observing that the petition suffered from latches and there is no explanation for it. Moreover, by the impugned order, the Registrar of Small Causes Court has directed release of the judgment debtor on his furnishing an undertaking to make the payment of the amount and on personal bound. It appears that the judgment debtor has filed his undertaking to make the payment and his personal bond is also taken. The learned single judge was, therefore, right in dismissing the writ petition. Besides, in our opinion, the appeal is also not maintainable because though in the title Article 226 is also mentioned, it appears to be a petition under Article 227 of the Constitution of India and, hence, the appeal is rejected.

3. In view of the rejection of the appeal, Civil Application No.3050 of 2000 does not survive and is disposed of such.

(SMT. RANJANA DESAI, J.)

(D.B. BHOSALE, J.)